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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,935	07/17/2003	Paul Anthony Ashley	AUS920030327US1	2329
63400	7590	10/17/2008		
IBM CORP. (DHJ) c/o DAVID H. JUDSON 15950 DALLAS PARKWAY SUITE 225 DALLAS, TX 75248			EXAMINER	
			DINH, MINH	
			ART UNIT	PAPER NUMBER
			2432	
			MAIL DATE	DELIVERY MODE
			10/17/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/621,935

**Applicant(s)**

ASHLEY ET AL.

**Examiner**

MINH DINH

**Art Unit**

2432

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5,7-10,12,14-17,19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-10,12,14-17,19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment filed 06/16/08. Claims 1, 8 and 15 have been amended; claims 6, 13 and 20 have been canceled.

***Response to Arguments***

2. Applicant's arguments with respect to the rejection of claims 15-17 and 19-21 under 35 USC 101 as directed to non-statutory subject matter have been fully considered but they are not persuasive. Applicant argues that the list of media disclosed in the specification includes a set of known physical media, e.g., EPROM, ROM, etc. (Remark, page 7, 3rd paragraph). However, the specification defines computer readable media as including transmission-type media (page 29, lines 1-13) within the scope of the term. Since the specification has provided intrinsic evidence of embodiments intended to be covered within the meaning of the claim terminology "computer readable medium", the claimed computer readable medium includes transmission-type media, which is non-statutory. Applicant may delete the reference in the specification to the transmission-type embodiments or amend the term "computer readable medium" to "computer readable storage media" in both, specification at page 29, line 10, and claims to overcome the rejection.
3. Applicant's arguments with respect to the rejection of claims 8-10 and 12-14 under 35 USC 101 as directed to non-statutory subject matter have been fully considered and are persuasive. Applicant points to part of the Specification (p. 7, line 28 – p. 8, line 24) which describes including hardware (i.e., computer platforms) as part

of the limitations. The rejection of claims 8-10 and 12-14 under 35 USC 101 as directed to non-statutory subject matter has been withdrawn.

4. Applicant's arguments with respect to the rejection of claims 8-10 and 12-14 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention have been fully considered and are persuasive. Since a combination of hardware and software instructions can be used to implement the present invention (Specification, page 9, lines 9-11), such a combination is considered corresponding structures for the means-plus-function claimed limitations. The rejection of claims 8-10 and 12-14 under 35 USC 112, second paragraph has been withdrawn.

5. Applicant's arguments, see pages 9-10, with respect to the rejection of claims 1-3, 5-10, 12-17 and 19-21 under 35 U.S.C. 102(b) as being anticipated by Marks et al. (US 2002/0010768 A1) have been considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kilkkila (US 6,854,060) and Burke et al. ("Simulation In A Distributed Mobile Switching Center Environment").

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 15-17, 19 and 21 are rejected under 35 U.S.C. 101 as failing to be limited to embodiments which fall within a statutory category. Claim 15 is directed to a computer readable medium that provides instruction. Such a computer readable

medium covers encoded signals (see Specification, page 29, lines 1-13), which does not fall within one of the four statutory classes of § 101 (MPEP §2106). Claims that are not specifically addressed are rejected by virtue of their dependency.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-3, 5, 7-10, 12, 14-17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilkkila (US 6,854,060) in view of Burke et al. ("Simulation In A Distributed Mobile Switching Center Environment"). Kilkkila discloses a method for dynamically modifying an access right profile including a set of user authorized resources in a telephone switching system (Abstract).

Regarding claims 1, 8 and 15, Kilkkila specifically discloses a method for restricting access to a set of resources comprising:

determining a set of authorized resources for which a user is authorized to access, i.e., defining access right profile for a user in a phone switching system (fig. 2, step 20; col. 2, lines 22-27);

obtaining state information about the set of authorized resources, i.e., obtaining information affecting the phone switching system and its resources, e.g., time of day and number of users, system utilization rate, an alarm situation(s), user's session duration, number of operations used/sessions, etc. (col. 2, lines 29-47; col. 3, lines 1-6);

evaluating availability of the set of authorized resources by comparing the state information about the set of authorized resources against a configurable rule associated

with one or more resources in the set of authorized resources, i.e., comparing the obtained state information against a condition/limit/threshold specified in a rule in the access right profile, and determining if there is a need to modify the set of authorized resources, e.g., when there are more users at day time, when the system utilization rate exceeds a threshold, when an alarm situation arises, when user's session duration, number of operations used/sessions held exceed a limit, etc. (fig. 2, steps 21-24; col. 4, lines 20-62);

in response to evaluating availability of the set of authorized resources using the configurable rule, generating a list of a set of entitled resources for the user, wherein the set of entitled resources is a subset of the set of authorized resources, i.e., modifying the access right profile such that less access rights are authorized (fig. 2, step 25; col. 2, lines 9-15; col. 4, lines 20-62);

preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources, i.e., allowing the user to access only resources in the set of entitled resources (col. 4, lines 20-62).

Kilkkila does not disclose utilizing the phone switching system in a distributed environment. Burk discloses utilizing phone switching systems in a distributed environment (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the phone switching system in a distributed environment, as taught by Burk. Distributed systems have the potential to permit growth many times the size of an individual unit within that system.

Regarding claims 2, 9, and 16, Kilkkila further discloses sending an indication of the set of entitled resources to the user, i.e., requests to access resources not in the set of entitled resources are not authorized (col. 4, lines 20-62).

Regarding claims 3, 10 and 17, Kilkkila further discloses responding to requests for the user to access the set of entitled resources (col. 4, lines 20-62).

Regarding claims 5, 12 and 19, Kilkkila further discloses considering user attributes of the user while evaluating availability of the set of authorized resources (col. 2, lines 22-37).

Regarding claims 7, 14 and 21, Kilkkila discloses gathering state information using a monitoring application. Kilkkila does not disclose gathering state information using a distributed monitoring application; however, it would have been obvious by the combination of using Kilkkila's switching system in Burk's distributed environment to use a distributed monitoring application for gathering state information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH DINH whose telephone number is (571)272-3802. The examiner can normally be reached on Mon-Fri: 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

/M. D./  
Examiner, Art Unit 2432  
10/10/08

/Gilberto Barron Jr/  
Supervisory Patent Examiner, Art Unit 2432